IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO.593 OF 2005
IN
NOTICE OF MOTION NO.1750 OF 2005
IN
B.C.C.L.C.SUIT NO.2032 OF 2005

Sanjay Construction Co. — Appellant
vs.
Maharashtra Housing & Area Development Authority & ors. — Respondents

Mr.Hitendra Mishra for the appellant.

Ms.Geeta Mulekar, A.G.P. for the State.

CORAM : B.H. MARLAPALLE,J.

DATED : 31st August 2005

P.C.

This appeal arises from the order dated 3.5.2005 passed by the learned Judge, City Civil Court, Greater Mumbai rejecting prayers (a) and (b) in Notice of Motion No.1750/2005 filed in S.C.Suit No.2032/05.

2. The appellant-plaintiff approached the trial Court on receipt of the notice dated 20.4.2005 issued by the respondent-defendant calling upon the plaintiff to hand over the site within 7 days from the receipt of the notice as the plaintiff had failed to complete the assigned construction work within 12 months which period would expire by February 2005. The said notice also

stated that as per the order passed by this Court, the re-construction of the building was to be completed within the stipulated time schedule and the re-allotment in the new building was to be made by January 2006. By the time the notice of motion was taken up for hearing, fresh tenders were also invited by the defendant and the agreement in favour of the plaintiff was terminated. In view of these circumstances, the prayer for temporary injunction was turned down. The said order does not call for any interference in this appeal, in view of the obtaining circumstances.

3. The appeal is, therefore, dismissed in limine. The plaintiff may approach the defendant to allow to take away its belongings including the construction material etc.

4. Civil Application does not survive.

(B.H. MARLAPALLE,J.)